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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/506,426

02/02/2005

Robert Alexander Ventzki

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EXAMINER

HANDY, DWAYNE K

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/506,426	<b>Applicant(s)</b> VENTZKI ET AL.	
	<b>Examiner</b> DWAYNE K. HANDY	<b>Art Unit</b> 1797	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 70-79, 81-84, 87-91 and 93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70-79, 81-84, 87-91 and 93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/10/09 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 70-72, 74-79, 81-84, 87-91 and 93 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashizaki et al. (6,120,667). This rejection was maintained in the previous Office Action (mailed 05/13/09). It remains in effect. Please see Response to Arguments below.

4. Claims 70-72, 74-79, 81-84, 87 and 89-91 are rejected under 35 U.S.C. 102(e) as being anticipated by Wierzbowski et al. (US 2002/0168643). This rejection was maintained in the previous Office Action (mailed 05/13/09). It remains in effect. Please see Response to Arguments below.

5. Claims 70-76, 78, 82-84, 87-91 and 93 are rejected under 35 U.S.C. 102(e) as being anticipated by Desrosiers et al. (6,410,332). This rejection was maintained in the previous Office Action (mailed 05/13/09). It remains in effect. Please see Response to Arguments below.

#### ***Response to Arguments***

6. Applicant's arguments filed 09/10/09 have been fully considered but they are not persuasive. Applicant has amended claims 70, 87, 90 and 91 have been amended to recite a first space. Applicant then argued that Hayashizaki does not teach a first space essentially entirely filled with a separation medium. The Examiner respectfully disagrees and submits that the each of the separation capillaries of Hayashizaki as shown in the Figures previously cited by the Examiner comprises a "first space" that is filled with separation media. The capillaries extend in three dimensions and contain separation media. This is what the claim as written requires.

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7. Applicant has also argued that Hayashizaki does not teach a first space without compartments. The Examiner respectfully disagrees and notes that this argument is beyond the scope of the claim as written. The claim as written simply recites a first space. In addition, the Examiner notes that the first space – as shown in Figure 2 - is indeed contained within a compartment (element 12 - the reservoir). See page 29, lines 17-22 of the Specification.

8. Applicant has amended claims 70, 87, 90 and 91 have been amended to recite a first space. Applicant then argued that Wierzbowski does not teach a first space essentially entirely filled with a separation medium. The Examiner respectfully disagrees and submits that the each of the sample wells of Wierzbowski comprises a "first space" that is filled with separation media. The wells extend in three dimensions and contain separation media. This is what the claim as written requires.

9. Applicant has also argued that Wierzbowski does not teach a first space without compartments. The Examiner respectfully disagrees and notes that this argument is beyond the scope of the claim as written. The claim as written simply recites a first space. In addition, the Examiner notes that the first space – as shown in Figure 2 - is indeed contained within a compartment (element 12 - the reservoir). See page 29, lines 17-22 of the Specification.

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10. Applicant has amended claims 70, 87, 90 and 91 have been amended to recite a first space. Applicant then argued that Desrosiers does not teach a first space essentially entirely filled with a separation medium. The Examiner respectfully disagrees and directs Applicant to the sorbent trap (254) feature of Desrosiers. The sorbent traps extend in three dimensions and contain separation media. This is what the claim as written requires.

11. Applicant has also argued that Desrosiers does not teach a first space without compartments. The Examiner respectfully disagrees and notes that this argument is beyond the scope of the claim as written. The claim as written simply recites a first space. In addition, the Examiner notes that the first space – as shown in Figure 2 - is indeed contained within a compartment (element 12 - the reservoir). See page 29, lines 17-22 of the Specification.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE K. HANDY whose telephone number is (571)272-1259. The examiner can normally be reached on M-F 11:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne K Handy/  
Examiner, Art Unit 1797

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797

November 21, 2009